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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/227,242

Applicant(s)

Miszczak et al.

Examiner

M. Alexandra Elve

Group Art Unit

1725



X Responsive to communication(s) filed on Feb 17, 2001

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

X Claim(s) 1 and 3-27 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

X Claim(s) 1 and 3-27 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All ☐ Some* ☐ None ☐ of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 & 3-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagarajan et al. (US Pat. 5,824,992) in view of James et al. (US Pat. 5,192,851) and Crockett et al. (US Pat. 5,365,036).

Nagarajan et al. discloses a metal core wire with a steel sheath. The core composition is between 0.001-12 wt% of the total metal core wire. Additionally, the core contains iron powder (abstract). The oxygen content of the metal-core wire weld deposits are affected by the shielding gas. The total metal core wire compositions contain the following approximate ranges, C (0.005-0.15 wt%), Mn (1.0-4.0 wt%) and Si (0.3-2.5 wt%) by total weight of the wire. The steel sheath contains the following approximate ranges, Mn (0.1-1.1 wt%), C(0.005-0.15 wt%), Ti, B, and the balance Fe. The metal core contains approximately C(0.005-0.030 wt%), Mn (0.5-2.5 wt%), Si (0.2-1.2 wt%), Ti (0.001-0.100 wt%), Fe (0.1-10.0 wt%) which yields the following combined compositions: Fe-Mn (0.6-12.5 wt%), Fe-Si (0.3-13.2 wt%), and Fe-Ti (0.101-10.1 wt%).

Analysis of the final weld deposit yields the presence of nitrogen (col. 2, lines 4-6; col. 4, lines 1-

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65; col. 5, lines 1-65; col. 6, lines 1-65; col.7, lines 1-65 & col. 8, lines 1-45). Furthermore, it is well known in the art that steels contain trace amounts of nitrogen, phosphorous and sulfur, that is, P (≤ 0.04 wt%), S (≤ 0.03 wt%) and N (≤ 0.2 wt%) (ASM Handbooks). Nagarajan et al. does not teach the presence of aluminum and silicon in the steel sheath, the composition of the shielding gas, the exact core weight percent of the total wire or fume reduction.

James et al. discloses an electrode wire for electric arc welding. The core contains Mn, Si and the remainder of the core contains fused mixed oxide, desired alloying components and iron powder (abstract). The oxides contain Al_2O_3 . The proportion of the core is 15 to 28 wt% of the total wire. Shielding gas is an argon-carbon dioxide mixture containing 2 to 25 % CO_2 . (Col. 1, lines 65-66; col. 2, lines 13-17) It would have been obvious to one of ordinary skill in the art at the time of the invention to use the Si and Al and core composition as disclosed by James et al. in the Nagarajan et al. welding electrode because of strength enhancement due to the presence of aluminum and silicon.

Crockett et al. discloses a gas shielded electrode. The wire has a ferrous sheath and the core contains aluminum, titanium, carbon, manganese and silicon. The presence of aluminum reduces the fume amounts during welding. Solid wire welding had reduced fume generation with the presence of aluminum (abstract & col. 3, lines 25-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to measure fume generation as taught by Crockett et al. for the Nagarajan et al. wire because it would characterize the welding wire and deposit more completely.

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If the range of the prior art and claimed range do not overlap, obviousness still exists if the ranges are close enough that one would not expect a difference in properties. In re Woodruff 16 USPQ 2d 1934; Titanium Metals Corp. v. Banner 227 USP 773 (Fed. Cir. 1985); In re Aller 105 USPQ 233. Furthermore, the selection of reaction parameters, such as gaseous environments, would have been obvious. It is well settled that where patentability is predicated upon a change in a condition of prior art process, such as gaseous environments (argon and carbon dioxide concentrations), the change must be at least "critical", that is, it must lead to a new and unexpected result. The applicant has the burden of providing such proof of criticality. In re Aller 105 USPQ 233, 255 (CCPA 1955).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bushey et al. (US Pat. 5,095,191); Keegan et al. (US Pat. 5,857,141).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is (703) 308-0092. The examiner can normally be reached Monday to Friday from 6:30 AM to 3:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn, can be reached on (703) 308-3318. The fax number for the group is (703) 872-9386.

Any inquiry of general nature to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-0661.

M. Alexandra Elve
M. Alexandra Elve
Patent Examiner
Technology Center 1700

March 1, 2001.